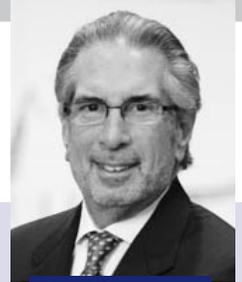


CHAIKIN
SHERMAN
CAMMARATA
SIEGEL P.C.

Attorneys at Law

Beating the insurance company at their own game

A message from Managing Partner Ira Sherman



Ira Sherman

Requiring that insurance carriers and defendants fulfill their responsibility to pay our clients is one of our primary responsibilities. However, the insurance carrier must also fulfill its obligation to protect the individual it insures against the risk that a verdict is greater than their insurance policy. If the insurance company fails to protect against that risk, their insured is responsible to pay any amount greater than the insurance purchased. You will see in two of the articles in this newsletter that both of my partners, Joseph Cammarata and Allan M. Siegel, have defeated the risk assessors at their own game. It is the primary obligation of insurance companies and corporate risk adjusters to evaluate the risk of losing, and assessing the likely amount the jury will award. They misjudged us **twice!**

In the first case, Joseph Cammarata went to trial in January with a client who suffered an injury to her back and a concussion. The insurance carrier offered \$20,500. The only job State Farm Insurance Company had was to assess the risk and amount of the potential loss. State Farm concluded that if they lost, the jury would award no more than \$20,500. We had no choice but to go to trial. Mr. Cammarata succeeded and won **\$1,934,369!** *The insurance company has paid the entire verdict.*

A few months later, Mr. Siegel and Mr. Tievsky went to trial in a case against Metro. Our client was struck in the rear by a Metro bus. Despite this being a rear-end collision, Metro offered **nothing** to settle the case. Mr. Siegel and Mr. Tievsky obtained a verdict in excess of **\$780,000!**

Congratulations to Mr. Cammarata, Mr. Siegel, and Mr. Tievsky for beating the insurance company and Metro at their own game **twice**, in 2013.

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ALL THREE ACTIVE PARTNERS RECOGNIZED BY SUPER LAWYERS AGAIN

Partners **Ira Sherman**, **Joseph Cammarata**, and **Allan M. Siegel** have once again been recognized by the prominent legal resource *Super Lawyers*. Each has been selected for inclusion in the 2013 publication of *Washington, D.C. Super Lawyers*. This is the third consecutive year that all three partners have been given this prestigious honor. Only 5 percent of attorneys in the Washington, D.C., area are named to this elite list. In addition, this is the second consecutive year that partner Joseph Cammarata was named one of the top 100 Super Lawyers. The partners were featured in the April 28, 2013, edition of *The Washington Post Magazine* in recognition of this honor. If you missed it, you can find the magazine insert on our website, **chaikinandsherman.com**, on our Facebook page.

Partner Joseph Cammarata obtains \$1.9 million verdict

STATE FARM PAYS VERDICT

A woman driving a car disregarded a “right turn only” sign, choosing instead to drive her vehicle through an intersection. This careless act caused a collision with a vehicle driven by our 28-year-old client. The airbags in our client’s vehicle deployed, and there was significant property damage.

Our client sought medical treatment and was diagnosed with a concussion. She also had problems with her lower back. Eventually, the concussion-related symptoms resolved. However, the client continued to experience low back pain. Her neurologist determined that the collision caused her preexisting back conditions to become symptomatic. The client underwent physical therapy and injections to her low back, but this treatment did not relieve her back pain. It was later determined by an orthopedic surgeon that the client needed surgery to help eliminate her pain and restore function.

The orthopedic surgeon said that even if the client elected to have the surgery, which she did not have as of the time of trial, she would have permanent limitations or restrictions on her daily functioning. These limitations were expected to have a negative impact on our client’s earning capacity (which is the ability to work and earn money).

Following the collision, the client applied, and was accepted for admission, to veterinary school. Because of her injuries, the client had to defer her enrollment into veterinary school for one year.

Partner **Joseph Cammarata** filed a lawsuit on behalf of our client against the woman who caused the collision. The woman was insured by State Farm Insurance Company. Her policy limits were \$100,000.

The client’s past medical bills totaled approximately \$23,500, and past lost wages were \$10,000. The cost of surgery was approximately \$48,000. The client’s diminished earnings capacity was in the range of

approximately \$1.7 million to \$2 million.

The law firm demanded that State Farm pay its policy limits of \$100,000 in an attempt to settle the case. In response, State Farm offered \$20,500 to settle the case.

The case was tried, over three days, in January 2013 before a D.C. Superior Court jury. The jury heard testimony from the client, her boyfriend and parents, and her treating neurologist and orthopedic surgeon. The client testified she would have the surgery done in the future.

State Farm presented evidence at trial through the woman and a doctor, hired by State Farm before trial, who examined the client. The

doctor testified that the client did not need surgery and that she was just suffering from a soft-tissue sprain/strain injury for which she needed physical therapy. The doctor examined our client approximately 2½ years following the collision. State Farm told the jury that even though the woman chose to disregard a traffic sign, our client was also a cause of the collision. State Farm argued that our client should have seen the woman’s vehicle and avoided the collision.

The jury rejected State Farm’s evidence and arguments and awarded our client \$1,934,369.

Following the trial, Mr. Cammarata took steps to collect the judgment, such as garnishing the woman’s wages and seizing her bank account. This led State Farm to enter into an agreement to pay the full amount of the judgment rather than just the policy limits of \$100,000 in exchange for Mr. Cammarata not continuing his efforts to collect the judgment. State Farm did not appeal the verdict and instead paid the judgment after taking a credit of \$200,000, which was the amount paid by GEICO, who was the client’s underinsured motorist carrier. The client was paid the full amount of the verdict.



Allan M. Siegel and Matthew Tievsky obtain \$783,644 verdict against Metro

Our client was driving on Georgia Avenue and had made a lane change in front of a Metrobus. As our client was proceeding through the intersection of Georgia Avenue and Harvard Street, he stopped because he thought he heard a siren, when the Metrobus struck his car in the rear. The entire incident was caught on camera because the Metrobus was equipped with a DriveCam, which is a camera installed in buses so that Metro can monitor the actions of its drivers. The DriveCam made it appear that our client's brake lights were not working and that he did not use his blinker when he changed lanes. You could also not hear a siren in the DriveCam video.

Metro claimed that our client caused the crash because he cut the bus off without using his blinker and then suddenly stopped on the road at a green light, for no reason, without brake lights. However, a careful review of the video showed that there were frames in which it looked like the plaintiff's right brake light lit up. Metro called an expert accident reconstructionist, who testified that what the jury was seeing on the video was simply the reflectors reflecting the sun, not brake lights. He also testified that the bus driver did not have enough time to react to the emergency created by our client.

Metro's Standard Operating Procedures showed that the bus driver was taught to keep a distance of 120 feet to 150 feet between his bus and any car. When our client changed lanes, there was only 59 feet. The bus driver, instead of braking when our client changed lanes so he could maintain a safe distance, continued to accelerate. Indeed, Metro's accident reconstructionist testified that the bus driver accelerated until 1.3 seconds before the crash.

The jury rejected Metro's defenses and found the bus driver responsible for the collision. Our client, who was 36 years old at the time, suffered a neck and back injury. The neck injury got better. However, our client was diagnosed with a herniated disk in his low back, which his doctor testified was a permanent condition. There were \$13,603.55 in past medical bills and \$4,416 in lost wages. The jury awarded our client compensation for his medical bills and lost wages, and \$765,625 for past and future pain and suffering.



From judicial law clerk to trial lawyer—my experience

By Matthew Tievsky, Esq.

From the time that I graduated law school through 2010, the majority of my legal career was spent as a judicial law clerk for two different judges on the Maryland Court of Special Appeals, which is Maryland's intermediate appellate court. But beginning in 2011, I began working as a trial lawyer for the firm of **Chaikin, Sherman, Cammarata & Siegel, P.C.** What has this transition been like?

In fact, the differences between the two jobs (and employers) are VAST. At both jobs, I have worked hands-on in litigation—in fact, right in the courthouse. But that is pretty much where the similarity ends.

Moving from the Court of Special Appeals to Chaikin, Sherman, Cammarata & Siegel, P.C., first of all has meant that I predominantly litigate cases that go to trial, or are on their way there. In contrast, with the Maryland judiciary I was

working on appeals—that is, cases in which the party who lost at trial asserts that there was a mistake in the trial.

As a trial attorney, the pace is much faster. At any given time, I am managing many different cases, and on any given day, I will probably do work on at least 10 different cases. Furthermore, with so many cases, deadlines are constantly approaching, and the pace is fast.

In contrast, because only a fraction of the cases that are tried are also appealed, the work on the Court of Special Appeals was much slower paced. When I worked for the Maryland judiciary, at most I would work on two cases on a given day. And there were no strict deadlines, because appellate cases take months, even years, to be decided.

The style of my work is also very different as a trial lawyer

(continued on back page)

From judicial law clerk to trial lawyer—my experience *(continued from page 3)*

in terms of the viewpoint that I take. Working for the Maryland judiciary meant that, like the judges, I was neutral. The work I produced had to be as evenhanded as possible. In contrast, as a trial lawyer, I am working for my client against an adversary, the defendant who has hurt my client. My job is to zealously advocate for my client's interests and to convince the judge that I am right. I'm not neutral anymore—I'm a fighter.

And that leads me to the third major difference between the two jobs. Working for the judiciary, there isn't such a thing as winning or losing—there's just doing a competent and thorough job for the judiciary, which is rewarding in

itself. But it's quite different as a trial lawyer. Obviously, doing the best job I can is a reward in itself, but now there really is winning and losing. There are risks, gambles, payoffs, defeats, and triumphs. This can make being a trial lawyer stressful, but also exhilarating. Sometimes trials don't go our way, but sometimes through our hard work and a little bit of luck, we have extraordinary wins. As recently as a month ago, I tried a case with one of the partners here, Allan M. Siegel, who took the lead at trial. Together we won a verdict of over \$780,000 in the District of Columbia on behalf of a client who was injured in a bus collision. That's a thrill that I could never experience as a judicial law clerk.

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Please feel free to refer us to your family, friends, and neighbors for their legal needs. We welcome the opportunity to help.

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CLIENT CORNER

Congratulations to our former client, Frank L. Nelson, who has published a book that offers guidance in documenting personal information in the event you or a loved one is faced with illness, injury, or death. Mr. Nelson is an experienced and certified financial planner and healthcare executive.

The name of the book is *A Sense of Comfort For You and Your Loved Ones*, and it features three sections: getting prepared, going into action, and other necessary information. It is available at www.asenseofcomfort.com as well as online retail bookstores such as Amazon.com and BarnesandNoble.com.

